

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTELLECTUAL VENTURES I LLC and)	
INTELLECTUAL VENTURES II LLC,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 13-cv-1274-SLR
)	
MANUFACTURERS AND TRADERS)	
TRUST COMPANY,)	
)	
Defendant.)	
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**NOTICE OF SUBSEQUENT AUTHORITY REGARDING DEFENDANT’S MOTION
TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Pursuant to Local Rule 7.1.2(b), Defendant Manufacturers and Traders Trust Company (“M&T”) respectfully provides notice of subsequent authority (“Notice”) that is germane to the arguments raised in M&T’s pending Motion to Dismiss Plaintiffs Intellectual Ventures I and Intellectual Ventures II’s (collectively, “IV”) First Amended Complaint (D.I. 16).¹ Defendants’ Notice includes both relevant authority from the United States Supreme Court and recent non-Supreme Court decisions concerning the four remaining Patents-in-Suit asserted by IV here.

1. Subsequent Supreme Court Decisions

Upon stipulation between IV and M&T, the Court stayed this action until July 14, 2014 pending the Supreme Court’s decision in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*. On June 19, 2014, the Supreme Court unanimously affirmed the Federal Circuit’s decision to invalidate Alice

¹ In its Motion, M&T seeks dismissal of IV’s First Amended Complaint on grounds that the four Patents-in-Suit are invalid under 35 U.S.C. § 101. The Patents-in-Suit include: U.S. Patent No. 7,664,701 (“the ’701 Patent”); U.S. Patent No. 8,083,137 (“the ’137 Patent”); U.S. Patent No. 7,603,382 (“the ’382 Patent”); and U.S. Patent No. 7,260,587 (“the ’587 Patent”). IV originally asserted a fifth patent, U.S. Patent No. 6,182,894 (“the ’894 Patent”), which was later dropped from IV’s First Amended Complaint.

Corp.’s method, computer-readable medium, and system claims as unpatentable subject matter under 35 U.S.C. § 101. *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, No. 13-298, 134 S. Ct. 1537 (Mar. 21, 2014).² Shortly after issuing its opinion in *Alice Corp.*, the Supreme Court vacated the Federal Circuit’s *Ultramercial* decision – the same decision cited by IV in its opposition to M&T’s Motion. *WildTangent, Inc. v. Ultramercial, L.L.C.*, No. 13-255, 134 S. Ct. 2870 (June 30, 2014) (*Certiorari* granted, decision vacated and remanded “GVR”). Moreover, on the same day it vacated *Ultramercial*, the Supreme Court denied *certiorari* in *Bancorp Servs., L.L.C. v. Sun Life Assurance Co. of Canada (U.S.)*, No. 13-584, 134 S. Ct. 2870 (June 30, 2014) and *Accenture Global Servs., GmbH v. Guidewire Software, Inc.*, No. 13-918, 134 S. Ct. 2871 (June 30, 2014).³

2. Subsequent Decisions Concerning the Patents-in-Suit

In addition to this new Supreme Court authority, two of IV’s four Patents-in-Suit – U.S. Patent No. 8,083,137 and U.S. Patent No. 7,603,382 – were recently held invalid under 35 U.S.C. § 101 in another district court litigation. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 2014 WL 1513273 (E.D. Va. Apr. 16, 2014) (“the court finds and concludes... that defendants have shown be clear and convincing evidence that the ‘137 patent and the ‘382 patent are invalid on the grounds that each claims unpatentable subject matter under § 101”) (attached hereto as Exhibit B). The ‘382 patent was also found to be unenforceable under § 112(b). *Id.*

And lastly, on May 22, 2014, the United States Patent and Trademark Office instituted covered business method (“CBM”) review of all four Patents-in-Suit finding that it is more likely than not that the subject claims are not patent eligible under 35 U.S.C. § 101.

² In doing so, the Supreme Court reiterated its test for validity under § 101 as set forth in prior its decisions including *Mayo Collaborative Servs. v. Prometheus Labs.*, 132 S. Ct. 1289 (2012).

³ Defendant cited the *Bancorp* and *Accenture* Federal Circuit decisions in support of its Motion. See Motion at *passim*.

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Dated: August 11, 2014

/s/ Chad M. Shandler

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